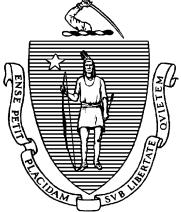


Senate, No. 2515

[Senate, June 23, 2010 – Substituted by amendment by the Senate (Ways and Means) for Senate, No. 2338]

The Commonwealth of Massachusetts



IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT ESTABLISHING AN ORGAN AND TISSUE DONOR REGISTRATION FUND.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the promotion of organ and tissue donor registration, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

1 **SECTION 1.** Chapter 10 of the General Laws is hereby amended by inserting after
2 section 35E the following section:-

3 Section 35E½ There shall be established and set up on the books of the commonwealth
4 an Organ and Tissue Donor Registration Fund to facilitate the registration of residents as organ
5 and tissue donors. The fund shall consist of revenues collected by the commonwealth: (1)

6 pursuant to section 15 of chapter 17 and section 8D of chapter 90; and (2) from public and
7 private sources as gifts, grants and donations to further such facilitation.

8 All revenues credited under this section shall remain in the Organ and Tissue Donor
9 Registration Fund, not subject to appropriation, to facilitate the registration of organ and
10 tissue donors and to support any reasonable and necessary administrative costs incurred by the
11 department of public health, not to exceed 3 per cent per annum of the funds held in the trust in
12 a given state fiscal year, in coordinating with the advisory council established in section 15 of
13 chapter 17 to carry out the responsibilities of the council. The state treasurer shall not deposit or
14 otherwise transfer the revenues to the General Fund or any other fund.

15 The state treasurer shall deposit the moneys in the fund in accordance with section 34 of
16 chapter 29 in a manner that will secure the highest interest available consistent with the safety
17 of the fund and with the requirement that all amounts on deposit shall be available for
18 immediate withdrawal at all times. The fund shall be expended at the direction of the
19 commissioner of public health only for the purposes stated in this section and any unexpended
20 balances shall be redeposited in the fund for future use consistent with this section.

21 **SECTION 2.** Chapter 17 of the General Laws is hereby amended by striking out
22 section 15, as appearing in the 2008 Official Edition, and inserting in place thereof the
23 following section:-

24 Section 15. (a) There shall be an advisory council on organ and tissue transplants and
25 donations which shall consist of the commissioner of public health, the registrar of motor
26 vehicles, the director of organ transplant services, the president of the Massachusetts Medical
27 Society, and at least 5 persons to be appointed by the governor with experience in the field of

28 organ and tissue transplants and donations, at least 1 of whom shall be a representative of a
29 federally-designated organ procurement organization serving the commonwealth, 1 of whom
30 shall be a physician experienced in organ and tissue transplantation, 1 of whom shall be a
31 physician experienced in pediatric organ and tissue transplantation, 1 of whom may be a
32 donated organ or tissue recipient, 1 of whom may be a pediatric donated organ or tissue
33 recipient and 1 of whom may be an organ or tissue donor or a family member of an organ or
34 tissue donor. Members shall be appointed for terms of 3 years and no member shall be
35 appointed to serve for more than 2 consecutive terms. Upon the expiration of the term of an
36 appointed member, a successor shall be appointed in like manner for a term of 3 years.

37 (b) The governor shall annually designate the chairperson of the council from among its
38 members. The council shall meet at least 2 times annually, and shall convene special meetings
39 at the call of the chairperson, a majority of the members of the council, the commissioner of
40 public health or the director of organ transplant services. The director of organ transplant
41 services shall serve as the executive secretary of the council and shall attend all meetings. The
42 council shall make an annual report to the governor, which shall include an account of all
43 actions taken to further adult and pediatric organ and tissue donor registration, and shall file a
44 copy of the report with the state secretary and the clerks of the senate and house of
45 representatives. Members of the council shall serve without compensation.

46 (c) The advisory council shall:
47 (1) assist the commissioner of public health and the director of organ transplant
48 services in coordinating the efforts of all public and private agencies within the

49 commonwealth concerned with the donation and transplantation of human organs
50 and tissue;

51 (2) advise the commissioner of public health and the director of organ transplant
52 services on policy and priorities of need for a comprehensive program relative to
53 organ and tissue donations and transplants;

54 (3) assist the director of organ transplant services in developing strategies to
55 increase adult and pediatric organ and tissue donor registration and awareness
56 with a special focus upon the need for increased pediatric organ and tissue
57 donation; provided, however, that funding to support any such strategies shall be
58 made available from the Organ and Tissue Donor Registration Fund established
59 in section 35E1/2 of chapter 10;

60 (4) assist the director of organ transplant services in establishing a website that
61 provides general information relative to adult and pediatric organ and tissue
62 donor registration and awareness, which shall include, but not be limited to,
63 information which the council and director consider beneficial in increasing
64 public knowledge about the need for organ and tissue donation, particularly
65 pediatric organ and tissue donation, and a means by which the public may donate
66 to the Organ and Tissue Donor Registration Fund;

67 (5) facilitate and assist in the establishment of a program by which employers
68 can match the donations of their employees to the Organ and Tissue Donor
69 Registration Fund;

70 (6) establish goals for increasing both adult and pediatric organ and tissue
71 donation rates, which shall include a baseline account of current organ and tissue
72 donation rates and periodic benchmarks for success; and

73 (7) assist the director of organ transplants in establishing regulations which shall
74 set forth standards and guidelines by which the director shall select individuals
75 receive funds from the Organ Transplant Fund established in section 35E of said
76 chapter 10 and determine the amount each such individual shall receive.

77 **SECTION 3.** Section 8 of chapter 90 of the General laws, as so appearing, is hereby
78 amended by inserting after the word “thereof”, in line 27, the following words:- , including any
79 online renewal.

80 **SECTION 4.** Section 8D of said chapter 90, as so appearing, is hereby amended by
81 inserting after the word “license”, in line 2, the following words:- and registration.

82 **SECTION 5.** Said section 8D of said chapter 90, as so appearing, is hereby further
83 amended by inserting after the third paragraph the following paragraph:-

84 The registrar shall include on any license renewal form, including any electronic renewal
85 form, an option for the person submitting the form to donate a sum of not less than 2 dollars to
86 the Organ and Tissue Donor Registration Fund established in section 35E1/2 of chapter 10. The
87 registrar shall annually report the total amount designated under this paragraph to the state
88 treasurer who shall credit amounts received for that purpose to the fund.

89 **SECTION 6.** Said section 8D of said chapter 90, as so appearing, is hereby further
90 amended by adding the following paragraph:-

91 The registrar shall develop a means by which a person licensed by the registrar to
92 operate a motor vehicle or holding an identification card issued under section 8E to register as
93 an organ and tissue donor through the registry's website. The means shall be in addition to and
94 shall contain the same security provisions as provided for the online renewal of licenses and
95 registrations.

96 **SECTION 7.** Notwithstanding any general or special law to the contrary, the executive
97 office of health and human services shall conduct a study of the feasibility, necessity, related
98 costs and cost implications of requiring a pharmacist to notify a physician who prescribed a
99 patient presenting to the pharmacist with a prescription for an immunosuppressant drug with a
100 narrow therapeutic index for the treatment of an organ or tissue transplant when any substitution
101 to another immunosuppressant drug with a narrow therapeutic index is made. For the purposes
102 of this paragraph, "immunosuppressant drug with a narrow therapeutic index" shall mean an
103 immunosuppressant drug for the treatment of an organ or tissue transplant that has a narrow
104 range in blood concentrations between efficacy and toxicity and requires therapeutic drug
105 concentration or pharmacodynamic monitoring. The secretary of health and human services
106 shall file a report on the results of the study and its recommendations, together with drafts of
107 legislation necessary to implement those recommendations, with the house and senate chairs of
108 the joint committee on health care financing not later than December 31, 2011.